

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PLATINUM-BEECHWOOD LITIGATION

Master Docket No. 1:18-cv-06658-JSR

MARTIN TROTT and CHRISTOPHER SMITH,
as Joint Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE
FUND L.P. (in Official Liquidation) and
PLATINUM PARTNERS VALUE ARBITRAGE
FUND L.P. (in Official Liquidation),

Case No. 1:18-cv-10936-JSR

Plaintiffs,

-v-

PLATINUM MANAGEMENT (NY) LLC,
et al.,

Defendants.

**DECLARATION OF DONALD H. CHASE IN SUPPORT OF THE
HUBERFELD FAMILY FOUNDATION, INC.’S MOTION FOR
SUMMARY JUDGMENT**

I, Donald H. Chase, declare as follows:

1. I am a member of Morrison Cohen LLP, counsel for defendant Huberfeld Family Foundation, Inc. (“HFF”) in the above-captioned consolidated action. Unless otherwise specified, I have personal knowledge of the facts set forth below.

2. I submit this declaration in support of HFF’s motion, pursuant to Fed. R. Civ. P. 56, for summary judgment dismissing the Second Amended Complaint as against HFF in the action styled *Martin Trott and Christopher Smith, as Joint Official Liquidators and Foreign Representatives of Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation) v. Platinum Management (NY) LLC, et al.*, Case No. 18-cv-10936 (JSR) (the “Trott Action”).

3. Attached hereto as Exhibit 1 is a true and correct of the Second Amended Complaint (without exhibits) in the Trott Action.

4. Attached hereto as Exhibit 2 is a true and correct copy of the Second Amended and Restated Operating Agreement of Platinum Management (NY) LLC.

5. Attached hereto as Exhibit 3 is a true and correct copy of The Trust Agreement for the Mark Nordlicht Grantor Trust.

6. Attached hereto as Exhibit 4 are excerpts from the true and correct copy of the transcript of the November 25, 2019 deposition of Murray Huberfeld.

7. Attached hereto as Exhibit 5 are excerpts from the true and correct copy of Murray Huberfeld's Responses and Objections to Plaintiffs' Requests for Admissions.

8. Attached hereto as Exhibit 6 is a true and correct copy of the Second Amended and Restated Limited Partnership Agreement of Platinum Partners Value Arbitrage Fund L.P.

9. Attached hereto as Exhibit 7 is a true and correct copy of the Fourth Amended and Restated Investment Management Agreement between, among others, PPVA (and its feeder funds) and PMNY.

10. Attached hereto as Exhibit 8 are excerpts from the true and correct transcript of the December 27, 2019 deposition of Joseph SanFilippo.

11. Attached hereto as Exhibit 9 is a true and correct copy of the Release Agreement between Platinum, Bodner, Huberfeld, Fuchs, Landesman and the Nordlicht Parties.

12. Attached hereto as Exhibit 10 is a true and correct copy of a record reflecting, among other things, the value of the Huberfeld Family Foundation, Inc.'s investment in PPVA from 2008 through 2015, bearing bates-numbers HFF000511-518.

13. Attached hereto as Exhibit 11 is a true and correct copy of a memorandum, dated March 20, 2016, from Eliot Lauer and Gabriel Hertzberg to Suzanne Horowitz and Harvey Werblowsky regarding Platinum Releases, bearing bates-numbers BODNER00000011-13.

14. Attached hereto as Exhibit 12 is a true and correct copy of HFF's Certificate of Incorporation.

15. Attached hereto as Exhibits 13-21 are excerpts from the true and correct copies of HFF's publicly-available Form 990 tax returns from 2008 through 2016, respectively.

16. Attached hereto as Exhibit 22 are excerpts from the true and correct copy of HFF's deposition transcript.

17. Attached hereto as Exhibit 23 is a true and correct copy of an email enclosing the March 2013 statement for HFF's investment in the Platinum Partners Black Elk Opportunities Fund International, Ltd., bearing bates-numbers CTRL4869272-73.

18. Attached hereto as Exhibit 24 is a true and correct copy of an email enclosing the August 2014 statement for HFF's investment in the Platinum Partners Black Elk Opportunities Fund International, Ltd., bearing bates-numbers CTRL4997607-08.

19. Attached hereto as Exhibit 25 is a true and correct copy of Black Elk Energy Offshore Operations, LLC's Form 10-Q quarterly report for the quarterly period ended June 30, 2013. This document is referenced in paragraph 463 of the SAC.

20. Attached hereto as Exhibit 26 is a true and correct of copy of an article entitled, "Moody's Investors Service: Moody's downgrades Black Elk's CFR to Caa2, outlook negative," which was published on June 7, 2013. This document is referenced in paragraph 462 of the SAC.

21. Attached hereto as Exhibit 27 is a true and correct copy of an article published by Reuters on September 17, 2012, entitled, “S&P cuts Black Elk Energy Offshore rating to CCC+.” This document is referenced in paragraph 462 of the SAC.

22. Attached hereto as Exhibit 28 is a true and correct copy of the Indenture for the 13.75% Senior Secured Notes Due 2015 issued by Black Elk Energy Offshore Operations, LLC. This document was originally annexed to the SAC as Exhibit 51.

23. Attached hereto as Exhibit 29 is a true and correct copy of the “Offer to Purchase and Consent Solicitation Statement” offered by Black Elk Energy Offshore Operations, LLC in respect of the outstanding 13.75% Senior Secured Notes due 2015.

24. Attached hereto as Exhibit 30 is a true and correct copy of a Form 8-K for Black Elk Energy Offshore Operations, LLC, dated August 15, 2014. This document was originally annexed to the SAC as Exhibit 58.

25. Attached hereto as Exhibit 31 is a true and correct copy of Plaintiff’s Supplement to Motion for Entry of Default Judgment, filed in the matter styled *In re Black Elk Energy Offshore Operations, LLC*, Case No. 16-03237.

26. Attached hereto as Exhibit 32 is a true and correct copy of the adversary complaint commenced against HFF by Richard Schmidt, Litigation Trustee for Black Elk Energy Offshore Operations, LLC, Case No. 18-03386, in the United States Bankruptcy Court, Southern District of Texas, Houston Division (the “Black Elk-HFF Lawsuit”).

27. Attached hereto as Exhibit 33 is a true and correct copy of the Order of Dismissal with Prejudice of Huberfeld Family Foundation, Inc., dated February 6, 2019, in the Black Elk-HFF Lawsuit.

28. Attached hereto as Exhibit 34 is a true and correct copy of an email from Plaintiffs' attorney Barbra Parlin to the Court, dated March 14, 2019.

29. Attached hereto as Exhibit 35 are excerpts from the true and correct transcript of the deposition of Martin Trott.

30. Attached hereto as Exhibit 36 are excerpts from a true and correct copy of HFF's Responses and Objections to Plaintiffs' Requests for Admission.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 14, 2020

/s/ Donald H. Chase
Donald H. Chase